

February 29, 2008

Mr. Bruce Wolfe  
Executive Officer

San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

**Subject: Comments from the City of Palo Alto on the Municipal  
Regional Permit Draft Tentative Order**

Dear Mr. Wolfe: *Bruce:*

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Regional Water  
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Thank you for the opportunity to submit comments on the Regional Water Board's Municipal Regional Permit (MRP) Tentative Order dated December 14, 2007. The City of Palo Alto prides itself in conducting a comprehensive, effective, and proactive storm water pollution prevention program. We have been widely recognized as a leader in the development and implementation of storm water quality protection programs, in several cases having implemented programs even before they were required. Our Urban Runoff Management Plan (URMP), based upon the performance standards developed in coordination with our partners in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SVURPPP), has been integrated into the standard operating procedures of the City's departments over the seventeen years since our first NPDES storm water permit was issued. The URMP contains detailed descriptions of the specific activities and best management practices that City staff members implement in order to reduce storm water pollution from urban runoff to the maximum extent practicable. The URMP and its underlying performance standards were developed consistent with the requirements of our current NPDES storm water discharge permit, were reviewed and approved by Water Board staff, and have served to generate significant changes in the attitudes and behaviors of municipal staff and the public that in turn have resulted in water quality improvements. While we understand the need for continuous improvement, we strongly oppose the drastic and onerous changes embodied in the MRP Tentative Order.

We object to the overly detailed and prescriptive requirements prevalent throughout the MRP Tentative Order and are particularly opposed to those measures which appear to lack scientific justification and are unlikely to produce any real-world water quality benefits. In addition, there are far too many examples of inflexible permit language that leave no opportunity for creative alternatives or adaptive management based on lessons learned.

Furthermore, we believe that it is unreasonable that Water Board staff has inserted new requirements into almost every section of the permit, without prioritizing the various elements based on their urgency or effectiveness or allowing the phase-in of the requirements over several permit cycles in light of the reality of limited municipal resources. It should be acknowledged that funding options for local agencies are limited by Prop 218, and fees cannot be imposed or increased to pay for new programs without a vote of the electorate. In our opinion, the diversion of limited staff and funding to the performance of activities with questionable benefits (e.g. testing of potable water discharges, inspection of fixed bases of mobile cleaners, etc.) and to documentation of minutia as required in the permit reporting sections would constitute a misuse of public funds. We have a fiduciary responsibility to make prudent use of the taxpayers' money, to prioritize our limited resources, and to pursue those tasks that produce measurable results in a cost effective manner. I would prefer to not be confronted with the difficult decision of whether or not to comply with a set of requirements that stretch our resources and have no measurable water quality benefits. Accordingly, we request that the Tentative Order be modified to focus exclusively on the following priority items that have the potential to contribute to real-world improvements to storm water quality:

- Consistent implementation of current performance standards;
- Phased-in implementation of measures consistent with currently adopted pesticide, mercury, and PCB TMDLs;
- Focused and cost-effective efforts to address trash in or likely to be conveyed by storm water into our waterways, with assessment work and data analysis informing the nature and location of the measures to be implemented and with structural control measures being tied to receipt of State bond money;
- Limited, streamlined reporting based on summary presentations of the least amount of relevant material needed to document compliance with permit requirements; and
- Limited and cost-effective monitoring linked to relevant management questions.

In addition to our concurrence with the comment letters submitted by SCVURPPP and the Bay Area Stormwater Management Agencies Association

(BASMAA), we offer the following comments addressed at specific elements of the Tentative Order:

- Permit Section C.2.b.ii: The permit requirement to verify the speed at which street sweepers are operated is unenforceable and of negligible benefit and should be deleted.
- Permit Section C.2.d.i: The permit requirements to prohibit discharge of wash water to storm drains and to implement the best management practices included in BASMAA's Mobile Surface Cleaner Program are inconsistent. The BASMAA Program allows discharge to storm drain as long as specified best management practices are followed. Permit should be amended to delete the discharge prohibition.
- Permit Section C.2.g.i: It is not possible to "eliminate non-storm water discharges" through the operation, inspection, and maintenance of storm water pump stations, as specified in this Section. This clause should be deleted from the permit.
- Permit Section C.3.b.i(5): Rehabilitation of existing arterial roads down to the gravel base is a maintenance activity that should not trigger compliance with the C.3 requirements (similar to street pavement resurfacing).
- Permit Section C.4.b.ii.(1)(c): It is not practical to schedule and conduct inspections of "mobile sources" on a routine basis since it is unknown when these companies are conducting business in our jurisdiction. Our existing programs of informational outreach and BASMAA-sponsored training targeting "mobile sources" are appropriate mechanisms for controlling these potential pollutant sources. In addition, staff actively responds to illegal discharge incidents from "mobile sources" based on complaints from residents and staff. The requirement to inspect the fixed base of the "mobile sources" makes no sense because there is nothing to inspect at these locations. The entire class of "mobile sources" should be deleted from the list of businesses to be inspected on a regular basis.
- Permit Section C.10: The draft permit contains an overly prescriptive approach that specifies the installation of expensive structural control measures before the nature of the trash problem and its causes are fully assessed and without providing resources for them. The permit should be modified to allow more time for implementation, allow more flexibility in

control strategies, and tie the requirement for structural controls to receipt of State bond money for funding.

- Permit Section C.11 and C.12: The draft permit requires diversion of dry weather and first flush flow to Publicly-Owned Treatment Works (POTW) from a specified number of storm water pump stations without consideration of the results of the prescribed pilot studies that will test the feasibility of such a diversion. This requirement is based on the faulty logic that it is reasonable to require an action with substantial costs before its benefits, constraints, or related consequences are known. The permit should be modified to predicate the follow-up requirements on the results of the pilot studies.
- Permit Section C.15.b: The draft permit requires onerous and expensive water quality testing and reporting for specified low-volume non-storm water discharges without providing justification that the requirements would produce cost-effective water quality benefits. The current practice of requiring the use of appropriate best management practices prior to the release of non-storm water discharges to storm drains and creeks is appropriate and effective. The permit should be modified to eliminate the testing and reporting requirements or at least to increase the volume thresholds at which the requirements are triggered.
- Annual Reporting requirements: Throughout the draft permit, there are requirements for the development of numerous databases, use of specific types of reporting formats, and significant additional reporting, all in the context where currently required reports are rarely reviewed in a timely manner. The intended usefulness and practicability of the reporting requirements are not clear and do not consider the significant incremental burden to be placed on local agency staff with little, if any, resulting benefit to water quality. The permit should be modified to substantially decrease the reporting requirements to the level of summary presentations of the least amount of relevant material needed to document compliance with permit requirements.

Thank you for the opportunity to provide written comments on the draft MRP Tentative Order. I also plan to attend the March 11 Water Board hearing in order to provide testimony directly to the Board outlining our significant concerns with the current draft permit language. While we remain committed to the implementation of activities and programs that reduce storm water pollution from urban runoff to the maximum extent practicable, our fiduciary

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responsibility to make prudent use of the taxpayers' money obligates us to oppose the adoption of the permit in its current form. I strongly encourage you to direct Water Board staff to work with BASMAA and its agency members to modify the permit by eliminating elements that lack the potential for real-world water quality benefits, focusing the requirements on key areas based upon a logical prioritization process, and allowing the phase-in of the requirements over several permit cycles in light of the reality of limited municipal resources.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn S. Roberts", with a long horizontal flourish extending to the right.

Glenn S. Roberts  
Director of Public Works

cc: City Council  
Frank Benest  
Phil Bobel  
Mike Sartor  
Joe Teresi  
Adam Olivieri, Santa Clara Valley Urban Runoff Program